

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CITIZENS NATIONAL BANK,)	
)	
Plaintiff,)	
)	No. 3:09-CV-585
)	(JORDAN/SHIRLEY)
V.)	
)	
LAURENCE STEINBAUM, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the order of the District Judge [Doc. 15] referring Plaintiff's Motion to Compel Responses to Rule 69 Post-Judgment Interrogatories and Requests for Production of Documents in Aid of Execution [Doc. 14] to this Court for disposition.

In its Motion to Compel, the Plaintiff notes that a Default Judgment was entered against Defendant Laurence Steinbaum on July 30, 2010. [Doc. 14 at ¶ 1]. On March 18, 2011, the Plaintiff served Defendant Steinbaum with post-judgment interrogatories and requests for production [Doc. 14 at ¶ 2]. At the time the Motion to Compel was filed on August 8, 2011, Defendant Steinbaum had not responded to the interrogatories or requests for production and the time allotted for doing so under the applicable rule and pursuant to the parties' stipulation had expired, see Fed. R. Civ. P. 33(b)(2). The Plaintiff, therefore, moves the Court for an order compelling Defendant Steinbaum to respond to the interrogatories and requests for production and for an award of attorneys' fees and expenses.

The Plaintiff's Motion to Compel was filed August 8, 2011. As of August 29, 2011, Defendant Steinbaum has not responded to the Motion to Compel, and the time for doing so has elapsed, see E.D. Tenn. L.R. 7.1(a), Fed. R. Civ. P. 6(d), 5(b)(2)(E). "Failure to respond to a motion may be deemed a waiver of any opposition to the relief sought." E.D.Tenn. L.R. 7.2.

Based upon Defendant Steinbaum's failure to respond in opposition, the Motion to Compel will be **GRANTED IN PART**. Defendant Steinbaum shall respond to the interrogatories and requests for production served upon him on or before **September 30, 2011**.

The Motion to Compel will be **DENIED IN PART, without prejudice**, as to its request for attorneys' fees or additional relief. Should Defendant Steinbaum fail to comply with this Order, the Plaintiff may move for attorneys' fees. The Court, however, would note that the emails attached to the Motion to Compel indicate that Defendant Steinbaum has lymphoma of the intestines. [See Doc. 14-3 at 1]. The Court will grant the Motion to Compel, because Defendant Steinbaum did not comply with the Local Rules or Federal Rules by timely responding. Nonetheless, should the Plaintiff seek further relief or attorneys' fees, it should first determine the nature, extent, and status of Defendant Steinbaum's condition, either from Defendant Steinbaum or his attorneys. Specifically, the Plaintiff should inquire as to Defendant Steinbaum's ability to respond to the discovery at issue. The Court will expect a report of Defendant Steinbaum's status prior to granting further relief.

In sum, the Motion to Compel [Doc. 14] is **GRANTED IN PART** and **DENIED IN PART**, as more fully explained above. Defendant Steinbaum shall respond to the post-judgment interrogatories and request for production on or before **September 30, 2011**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge